

REMARKS

In view of both the amendments presented above and the following discussion, the Applicant submits that none of the claims now pending in the application is anticipated under the provisions of 35 USC § 102 or obvious under the provisions of 35 USC § 103. Thus, the Applicant believes that all of these claims are now in allowable form.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, the Examiner should telephone Mr. Richard J. McGrath, Esq. at (703) 994-2006 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Claim Amendments

Claims 1 and 8 have been amended to describe the threshold noise level as a dynamic threshold noise level, and to further describe the local minimum value as successive local minimum values.

Rejection under 37 C.F.R. § 102(b)

The Examiner has again rejected claims 1, 2, 5-9 and 12-14 under 35 U.S.C. § 102(b) as being allegedly anticipated by Appel et al. (EP1206104, hereinafter "Appel"). Applicant again respectfully traverses the rejection.

As stated in the Remarks of the previous Amendment and restated herein, for a Section 102 rejection to be proper, the cited reference must teach or suggest each and every claimed element. See *M.P.E.P.* § 2131; *M.P.E.P.* § 706.02. Thus, if the cited reference fails to teach or suggest one or more elements, then the rejection is improper and must be withdrawn. In order to emphasize the differences between the present claims and Appel, the Applicant has further amended independent claims 1 and 8 to recite "the determination of a dynamic threshold noise level, by determining successive local minimum values of the degraded speech signal  $s'(t)$ ".

The final Office Action (see page 3) has again relied upon paragraphs [0019-0028] of Appel as disclosing the determination of a local minimum value of the degraded speech signal  $s'(t)$ . The Applicant respectfully disagrees, incorporates herein the arguments from the previous Amendment entered on March 30, 2007, and respectfully requests that the Examiner consider the following additional arguments.

The present application (at paragraphs [0008] and [0061]-[0063]) describes the features of claims which are clearly distinguishable over Appel. In order to further emphasize these distinctions, the adjective "dynamic" has been added to the term "threshold noise level" in order to more clearly indicate that the threshold noise level changes in time, as opposed to the determination of the threshold noise level in Appel. For example, in paragraph [0027] of Appel the following statement appears.

Experimentally a suitable criterion C appeared to be that the loudness of the frames in the loudness degraded signal  $R'(t)$  is larger than or equal to the threshold value  $T(Ne)$  or not, choosing said threshold value to be a **constant factor**  $C_f$  times the estimated value  $Ne$ , i.e.  $T(Ne) = C_f \cdot Ne$ . A suitable value for the **constant factor** appeared to be  $C_f = 1.6$ . [emphasis added].

Accordingly, it is respectfully submitted that the threshold value  $T(Ne)$  of Appel, which the Examiner alleges corresponds to the threshold of claims 1 and 8, includes a constant factor, and the value  $T(Ne)$ , therefore, is not the same as the dynamic threshold of amended claims 1 and 8. Moreover, claims 1 and 8 have been amended to recite that "successive local minimum values" are determined, and a determination of successive local minimum values is a further recitation that the threshold noise level of the claimed invention is dynamic and distinguishable from Appel.

By determining the minimum value as a "dynamic local minimum value", the claimed invention provides an improved quality measurement system, which provides a robust and adequate talking quality indicator, even in the presence of variations in background noise level. It is respectfully submitted that the cited prior art Appel reference clearly does not disclose nor suggest this feature. It is therefore respectfully submitted that amended independent claims 1 and 8 are novel and non-obvious in view of the cited prior art.

Since dependent method claims 2-7 and 9-14 include the features of amended independent claims 1 and 8 respectively, it is respectfully submitted that dependent

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claims 2-7 and 9-14 are allowable over Appel for at least the same reasons as amended independent claims 1 and 8.

Conclusion

Thus, the Applicant submits that none of the claims, presently in the application, is anticipated under the provisions of 35 USC § 102 or obvious under the provisions of 35 USC § 103.

Consequently, the Applicant believes that all these claims are presently in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

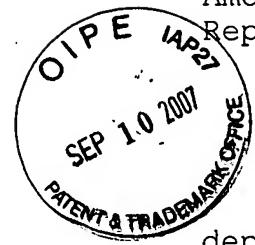
Respectfully submitted,

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Peter L. Michaelson, Attorney  
Customer No. 007265  
Reg. No. 30,090  
(732) 542-7800

MICHAELSON & ASSOCIATES  
Counselors at Law  
P.O. Box 8489  
Red Bank, New Jersey 07701-8489

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**CERTIFICATE OF MAILING under 37 C.F.R. 1.8(a)**

I hereby certify that this correspondence is being deposited on **September 7, 2007** with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to the Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

*Peter L. Miller, Jr.*  
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Signature

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Reg. No.